

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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XAVIER PETTIFORD,

Plaintiff,

-against-

THE CITY OF NEW YORK, a municipal entity; New York City Police Department ("NYPD") Detective PATRICK FITZSIMONS, in his individual capacity; NYPD Police Officer ERIC RYAN, in his individual capacity; NYPD Detective JASON ZUMMO, in his individual capacity; and NYPD Police Officers JOHN DOES (whose identities are presently unknown), in their individual capacities,

Defendants.  
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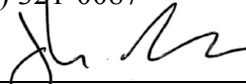
**NOTICE OF ACCEPTANCE  
OF RULE 68 OFFER OF  
JUDGMENT**

No. 17-cv-5273 (ILG) (JO)

**PLEASE TAKE NOTICE** that plaintiff XAVIER PETTIFORD, by his undersigned attorneys, accepts Defendants' Rule 68 Offer of Judgment dated July 19, 2018, attached hereto, to take a judgment against the City of New York in this action for the total sum of One Hundred Fifty Thousand and One Dollars (\$150,001.00), plus reasonable attorneys' fees, expenses, and costs, in full satisfaction of all federal and state law claims or rights that Plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants or any official, employee, agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

Dated: New York, New York  
July 20, 2018

BERNSTEIN CLARKE & MOSKOVITZ PLLC  
11 Park Place, Suite 914  
New York, New York 10007  
(212) 321-0087

By:   
\_\_\_\_\_  
Joshua S. Moskowitz

To: Evan Brustein  
Senior Counsel  
New York City Law Department  
100 Church Street  
New York, New York 10007

*Attorneys for the Defendants*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
XAVIER PETTIFORD,

Plaintiff,

-against-

CITY OF NEW YORK, DETECTIVE PATRICK  
FITZSIMONS, DETECTIVE ERIC RYAN, and  
DETECTIVE JASON ZUMMO,

Defendants.  
----- X

**RULE 68  
OFFER OF JUDGMENT**

17-CV-5273 (ILG) (JO)

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendants, and any defendant who is currently or subsequently named and hereafter represented by the Office of the Corporation Counsel in this action, hereby offer to allow plaintiff Xavier Pettiford to take a judgment against the City of New York in this action for the total sum of One Hundred Fifty Thousand and One (\$150,001.00) Dollars, plus reasonable attorneys' fees, expenses, and costs to the date of this offer for plaintiff's federal claims.

This judgment shall be in full satisfaction of all federal and state law claims or rights that plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted up to and including **August 2, 2018**.

This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by

defendants or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that plaintiff has suffered any damages.

Acceptance of this offer of judgment will act to release and discharge defendants; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by plaintiff arising out of the facts and circumstances that are the subject of this action.

Acceptance of this offer of judgment also will operate to waive plaintiff's rights to any claim for interest on the amount of the judgment.

Plaintiff Xavier Pettiford agrees that payment of One Hundred Fifty Thousand and One (\$150,001.00) Dollars within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If plaintiff Xavier Pettiford is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date plaintiff submits to counsel for defendants a final demand letter from Medicare.

By acceptance of this Rule 68 Offer of Judgment, plaintiff Xavier Pettiford agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff Xavier Pettiford further agrees to hold harmless defendants and all past and present officials, employees, representatives

and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

The judgment shall contain and recite the terms and conditions set forth herein.

Dated: New York, New York  
July 19, 2018

ZACHARY W. CARTER  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants City, Fitzsimons, Ryan, and  
Zummo*  
100 Church Street, Room 3-147  
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By

  
\_\_\_\_\_  
Evan Brustein  
*Senior Counsel*

To: VIA HAND DELIVERY  
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